UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of ANC CORPORATION, d/b/a NATIONAL CAR RENTAL Employer[1] and NANCY SASSONE, An Individual Petitioner and TEAMSTERS LOCAL 25, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO Union[2]	Case 1-RD-1991

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the Regional Director.

Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.

[1] The name of the Employer appears as amended at the hearing.

[2] The name of the Union appears as amended at the hearing.

3. The labor organization involved claims to represent certain employees of the Employer.[3]

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

The Union contends that there is a collective-bargaining agreement in effect that bars an election. The Petitioner contends that there is no contract bar. At the hearing, the Employer took no position on the issue. I find that there is no contract bar to an election.

The Employer is engaged in the car rental business at its East Boston, Massachusetts facility. The Employer and the Union have been parties to a collective-bargaining agreement covering the Employer's rental agents, service agents, hand held agents, bus drivers, and mechanics at the East Boston facility. The most recent contract was effective by its terms from October 9, 1998 through February 25, 2002 (1998-2002 agreement).[4]

In the spring of 2002, the Employer and the Union entered into a Contract Extension Agreement.[5] This agreement states in its entirety as follows:

> This agreement is entered into by and between ANC Corporation d/b/a National Car Rental (Employer) and Teamsters Local 25 for the purpose of extending the current collective bargaining agreement. It is specifically agreed that all terms and conditions of the current collective bargaining agreement will continue in full force until a successor agreement has executed (sic) or one party has served ten (10) days notice on the other of their desire to terminate this agreement.
>
> The parties further agree that so long as there is no work stoppage or slowdown, all economic gains shall be paid retroactively to February 25, 2002, unless the parties reach an alternative agreement during the negotiations process.

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[3] The Petitioner asserts that the Union, the currently recognized collective-bargaining representative of the employees designated in the petition, is no longer the bargaining representative as defined in Section 9(a) of the Act. At the hearing, the Petitioner refused to join the other parties in a stipulation that the Union is a labor organization within the meaning of the Act. In view of a collective-bargaining history and current agreement between the Employer and the Union, the stipulation of the other parties to the hearing, numerous Board cases finding the Union to be a labor organization such as to warrant administrative notice of this fact, and the nature of the Petitioner's petition, I find that the Union is a labor organization within the meaning of the Act.

[4] The hearing in this matter was left open to allow for receipt of the 1998-2002 contract into the record. That document having been received, the hearing has been closed.

[5] The Employer signed the extension on April 26, 2002 and the Union signed the extension on May 1, 2002.

As of the date of the hearing, no further contract document had been signed by the Employer and the Union. The petition in this case was filed on September 26, 2002.

In order for a collective-bargaining agreement to serve as a bar to an election, the Board's contract-bar rules require that such an agreement satisfy certain formal and substantive requirements. Under these rules, an agreement of indefinite duration or with no fixed term does not bar an election for any period.[6] An extension of an expired agreement, made pending the negotiation of a new agreement or the modification of an old agreement, is treated in the same manner, and therefore an extension agreement of indefinite duration cannot operate as a bar.[7] The burden of proving that a contract is a bar is on the party asserting the doctrine.[8]

The extension agreement here has no fixed term and is for an indefinite duration. Accordingly, I find that it is not a bar to the direction of an election in the instant case.

5. At the hearing, there was no stipulation by the parties as to the unit description. In a decertification election, the appropriate bargaining unit is coextensive with the certified or recognized unit.[9] Accordingly, I will direct an election in the unit described in the 1998-2002 agreement.

There are approximately 70 employees in the unit petitioned for.

Accordingly, on the basis of the foregoing and the record as a whole, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time rental agents, service agents, hand held agents, bus drivers and mechanics employed by the Employer at its East Boston, Massachusetts location, but excluding office clerical employees, reservationists, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

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[6] *Pacific Coast Association of Pulp and Paper Manufacturers*, 121 NLRB 990 (1958).

[7] *Compton Company, Inc.*, 260 NLRB 417, 418 (1982); *Peabody Coal Company*, 197 NLRB 1231, 1232 fn. 9 (1972); *Frye & Smith, Ltd*., 151 NLRB 49, 50 (1965).

[8] *Roosevelt Memorial Park*, 187 NLRB 517 (1970).

[9] *Campbell Soup Co*., 111 NLRB 234 (1955).

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Teamsters Local 25, International Brotherhood of Teamsters, AFL-CIO.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercises of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U. S. 759 (1969). Accordingly, it is hereby directed that within seven days of the date of this Decision, two copies of an election eligibility list containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be receive by the Regional Office, Thomas P. O'Neill, Jr. Federal Building, Sixth Floor, 10 Causeway Street, Boston, Massachusetts 02222-1072, on or before October 23, 2002. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by October 30, 2002.

/s/ Rosemary Pye
Rosemary Pye, Regional Director
National Labor Relations Board
First Region
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Sixth Floor
Boston, Massachusetts 02222-1072

Dated at Boston, Massachusetts,
this 16th day of October, 2002.

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